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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15-11-2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.31373 of 2016

And

WMP No.27227 of 2016

E.D1175 Erumasamuthiram Milk
Producers Cooperative Society Ltd.,
Represented by its Secretary,
Pethanaikenpalayam Post and Taluk,
Salem District - 636 109. .. Petitioner

vs.

1.The Commissioner for Milk Production and
Dairy Development,
Madavaram Milk Colony,
Chennai - 51.

2.The Public Information Officer /
Deputy Registrar of Cooperative Societies (Dairy),
Nachiappa Hall,
Nattammai Kalaga Katida Valagam,
Salem - 1.

3.P.Jayakumar .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records of the second respondent in his letter in Na.Ka.978/2016/E dated 27.07.2016, directing the petitioner to forward the information sought by the third respondent quash the same holding that the petitioner Milk Producer Cooperative Society registered under the Tamil Nadu Cooperative Societies Act will not fall within the definition of "Public Authority" as defined under Section 2(h) of the RTI Act.

For Petitioner : Mr.M.S.Palaniswamy

For Respondents-1 and 2 : Mr.C.Selvaraj,
Additional Government Pleader.

For Respondent-3 : Mr.A.Thiyagarajan



O R D E R

This Writ Petition has been filed seeking to quash the order of the second respondent in his letter in Na.Ka.978/2016/E dated 27.07.2016, directing the petitioner to forward the information sought by the third respondent, holding that the petitioner Milk Producer Cooperative Society registered under the Tamil Nadu Cooperative Societies Act will not fall within the definition of "Public Authority" as defined under Section 2 (h) of the RTI Act.

2. Learned counsel for the petitioner submitted that the petitioner is the elected President of the Society. By letter dated 27.07.2016, the second respondent sought for certain information and documents regarding appointment of Information Officers in Cooperative Societies. And the third respondent also requested for certain copies of documents. It is further submitted that the Final Authority rests with General Body of its members and not with the Registrar of Co-operative Societies or State Government. According to the petitioner, the Cooperative Society is not a body, which is controlled by the Government and hence does not fall within the definition of Section 2(h) of the Rights to Information Act. In view of the above legal position, this writ petition is filed to set aside the letters of the respondents seeking information and documents.

3. When the matter was taken up for final disposal, learned counsel appearing for both the parties submitted that the relief prayed for, in the present writ petition is squarely covered by the decision of the Hon'ble Supreme Court in the case of Thalappalam Service Cooperative Bank Ltd and Others vs. State of Kerala and Others [2013 (6) CTC 98 (SC)] and the judgement of the Division Bench of this Court in the case of Public Information Officer vs. The Registrar, Tamil Nadu Information Commission [2015 (4) CTC 105].

4. In paragraph 54 of the judgment in the case of Thalappalam Services Cooperative Bank Ltd and Others Vs. State of Kerala and Others [(2013) 7 MLJ 407 (SC)], the Hon'ble Supreme Court has held as follows:

"We, therefore, hold that the Cooperative Societies registered under the Kerala Co-operative Societies Act will not fall within the definition of public authority as defined under Section 2(h) of the RTI Act and the State Government letter dated 05.05.2006 and the circular dated 01.06.2006 issued by the Registrar of Co-operative Societies, Kerala, to the extent, made applicable to societies



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registered under the Kerala Co-operative Societies Act would stand quashed in the absence of materials to show that they are owned, controlled or substantially financed by the appropriate Government. Appeals are, therefore, allowed as above, however, with no order as to costs."

In Paragraph 9 of the decision in The Public Information Officer Vs. The Registrar, Tamilnadu Information Commission and Others etc. [2015 (4) CTC 105], the Hon'ble Division Bench of this Court has held as follows:

"9. In the light of the above, we have no hesitation to hold that the legal issue arising in these Appeals are squarely covered by the decision of the Hon'ble Supreme Court in the case of Thalappalam Ser. Coop. Bank Ltd. And others Vs. State of Kerala and others, 2013 (6) CTC 98 (SC). The distinction sought to be drawn by the learned counsel for the respondent stating that the provisions of the RTI Act would be applicable to cases where the Government Officers are appointed to function as Special Officers of the society, when there is no elected Board of Directors, could hardly make any difference in the light of the recent pronouncement of the Hon'ble Supreme Court. The learned Counsel appearing for the Appellants submitted that for all the societies, elections were conducted and the societies are managed by the elected members."

5. In view of the aforesaid decisions, I have no hesitation to quash the proceedings passed by the second respondent in his letter in Na.Ka.978/2016/E dated 27.07.2016. Hence, the impugned order is quashed and the writ petition is allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

Svn



To

1.The Commissioner for Milk Production and
Dairy Development,
Madavaram Milk Colony,
Chennai - 51.

2.The Public Information Officer /
Deputy Registrar of Cooperative Societies (Dairy),
Nachiappa Hall,
Nattammai Kalaga Katida Valagam,
Salem - 1.

+1cc to Mr.A.Thiyagarajan, Advocate SR.No.58753

+1cc to Government Pleader SR.No.59051

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PCH(CO)
GMY(26/11/2021)